



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,494	01/28/2002	William P. Cramer	20011CR	2287

7590 03/24/2004

Herman H. Bains  
Attorney  
6101 Tracy Avenue  
Minneapolis, MN 55436

EXAMINER

LAGMAN, FREDERICK LYNDON

ART UNIT	PAPER NUMBER
----------	--------------

3673

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/056,494

Applicant(s)

CRAMER, WILLIAM P.

Examiner

Frederick L. Lagman

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the Colonial Pipeline Company website pages including sections entitled "Terminalling Services," "About Us," and "System Map." Colonial Pipeline Company discloses a petroleum distribution system that includes supply lines below the ground surface, such supply lines include pumping stations i.e. terminals. The system map shows the distribution system passing through several states and it would be inherent that should the pipeline system need to pass or parallel an interstate highway, that proper "permission" is acquired. The claims also do not specify a specific length of pipeline. Therefore, with the length of underground pipe and all of the interstates traversing the U.S., the pipeline would definitely extend below and immediately adjacent the highways for at least some undetermined finite length. In the alternative, it would have been obvious matter of design choice to one of ordinary skill in the art to place a pipeline under the median of a highway, since doing would facilitate laying out of the pipeline from a "point a" to a "point b", for example. As to the product being electricity, it would have been obvious to one of ordinary skill in the art to

provide an electricity as an energy product, since the use of electricity is well known and lines for electricity are known to be provided underground for fiber optics and telecommunications for example.

3. Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by the Federal Highway Administration Program Guide entitled, "Utility Relocations, Adjustments, and Accommodation on Federal-Aid Highway Projects," hereinto referred to as FHWA. FHWA discloses the provision of utility pipelines along highways right-of-ways, see in particular the last page of the document.

4. Claims 4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by "Building the Future-Proof Telco" by David Diamond. Diamond discloses the placement of fiber optic cable along interstate highways.

#### ***Response to Arguments***

5. Applicant's arguments filed 12/08/03 have been fully considered but they are not persuasive. Applicant contends that the pipelines are not buried underground; however, there are no direct showing that the pipelines are not underground in any of examples 1-4. Furthermore, the placement (location) of the pipeline would be an obvious matter of design choice.

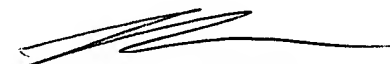
#### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick L. Lagman whose telephone number is 703-305-7456. The examiner can normally be reached on Monday-Friday 9:00am to 5:30pm.

Art Unit: 3673

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Schackelford can be reached on 703-308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Frederick L. Lagman  
Examiner  
Art Unit 3673

FLL